

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Acampora	Team: Team # 6	CCRB Case #: 201300295	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/11/2012 5:20 PM	Location of Incident: 23-52 Mott Avenue	Precinct: 101	18 Mo. SOL 6/11/2014	EO SOL 6/11/2014	
Date/Time CV Reported Wed, 01/02/2013 3:10 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Wed, 01/02/2013 3:10 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Carlos Segovia	26422	937513	101 PCT
2. POM Joseph Zappia	13701	936014	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Pegeen Roberto	12149	935606	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Zappia	Force: PO Joseph Zappia used physical force against § 87(2)(b) [REDACTED]	
B.POM Carlos Segovia	Force: PO Carlos Segovia used physical force against § 87(2)(b) [REDACTED]	
C.POM Carlos Segovia	Discourtesy: PO Carlos Segovia spoke discourteously to § 87(2)(b) [REDACTED]	
D.POM Carlos Segovia	Force: PO Carlos Segovia used physical force against § 87(2)(b) [REDACTED]	

Case Summary

On January 2, 2013, § 87(2)(b) filed this complaint with the CCRB via mail, on behalf of her § 87(2)(b)-old son, § 87(2)(b) § 87(2)(b) was not present for or witness to the incident in question. On December 11, 2012, at approximately 5:20 p.m., § 87(2)(b) was arrested on the rooftop of 23-52 Mott Avenue in Queens. The following allegations resulted:

- **Allegation A—Force: PO Joseph Zappia used physical force against** § 87(2)(b)
- **Allegation B—Force: PO Carlos Segovia used physical force against** § 87(2)(b)

§ 87(2)(g)

- **Allegation C—Discourtesy: PO Carlos Segovia spoke discourteously to** § 87(2)(b)

§ 87(2)(g)

- **Allegation D—Force: PO Carlos Segovia used physical force against** § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Civilian Statement

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) at the time of the incident. He is a Hispanic male, who is 5'11", weighs 181 lbs., and has brown hair and brown eyes. § 87(2)(b) is § 87(2)(b)

Statements to Medical Personnel

§ 87(2)(b) stated to medical personnel that his eye injury was the result of being kicked in the eye by a police officer wearing boots while he was being arrested (encl. 23A-23AQ).

CCRB Statements

§ 87(2)(b) was interviewed at the CCRB on February 11, 2013 (encl. 8A-8E) His statement is summarized below.

On December 11, 2012, at approximately 5:20 p.m., § 87(2)(b) was inside 23-52 Mott Avenue in Queens. § 87(2)(b) was in the stairwell between the third floor and the roof with his four friends: § 87(2)(b), § 87(2)(b) (§ 87(2)(b)'s cousin, last name unknown), § 87(2)(b), and § 87(2)(b). § 87(2)(b) and his friends have another friend named § 87(2)(b) (last name also unknown) who lives in the building, and was with them earlier in the day, but was not present during the incident. Neither § 87(2)(b) nor any of his friends present during the incident live at 23-52 Mott Avenue. § 87(2)(b) and his friends had gone to the building to smoke marijuana, and

had been in the building for approximately 45 minutes. § 87(2)(b) and his friends had just finished smoking marijuana in a stairwell when § 87(2)(b) heard the sound of keys. § 87(2)(b) looked down the stairwell, but did not see anybody. § 87(2)(b) threw the marijuana clip in the corner of the area that they were standing in. § 87(2)(b) looked down the stairwell, and then ran out the third floor door, and up to the rooftop. § 87(2)(b) assumed it was somebody that § 87(2)(b) had had a disagreement with, and also ran to the rooftop.

§ 87(2)(b) took a right turn after exiting onto the rooftop. § 87(2)(b) also ran onto the roof and turned right. § 87(2)(b) turned left on the roof, and hid. § 87(2)(b) was grabbed by a plainclothes officer (identified by the investigation as PO Zappia) when the officer came onto the roof and turned a corner towards him. PO Zappia had his head down, and it was dark out, so § 87(2)(b) could not see who he was. § 87(2)(b) was scared and surprised, and did not know who the officer was. PO Zappia grabbed both of § 87(2)(b)'s arms with his hands in front of him, and § 87(2)(b) swiped his hands away/threw them off, and PO Zappia fell to the ground. PO Zappia did not say anything to § 87(2)(b) before grabbing him. § 87(2)(b) and § 87(2)(b) were running to the other side of the rooftop, at least 20 feet from § 87(2)(b) when § 87(2)(b) was grabbed by PO Zappia.

Approximately ten seconds later, a uniformed officer (identified by the investigation as PO Segovia) came on to the roof. § 87(2)(b) then realized PO Zappia was also a police officer, and voluntarily went down on the ground on his stomach. PO Zappia got up off the ground, and jumped on § 87(2)(b)'s back. § 87(2)(b) was lying on his stomach, and had his hands stretched out straight in front of him. PO Zappia asked § 87(2)(b) to put his arms behind his back once, and physically moved § 87(2)(b)'s right arm behind his back, while his left arm was still on the ground. PO Zappia told PO Segovia that § 87(2)(b) punched/elbowed him in his face. § 87(2)(b) did not punch/elbow PO Zappia in his face. § 87(2)(b) stated the only action he performed was throwing PO Zappia off of him.

PO Zappia and PO Segovia then started punching him in the head. PO Segovia also told § 87(2)(b) to put his hands behind his back. § 87(2)(b) said he could not put his hands behind his back because the officers were beating him up. PO Segovia told § 87(2)(b) to, "Shut the fuck up," and kicked § 87(2)(b) in his eye. § 87(2)(b) covered his face with his hands while he was being hit. He looked up and to the left, and saw PO Segovia kick him.

Fifteen to twenty seconds later, two more uniformed officers (PO1 and PO2) came on the roof. § 87(2)(b) did not know how many different officers touched him in total. 30 seconds to a minute after PO1 and PO2 came onto the roof, a plainclothes female officer (identified by the investigation as PO Pegeen Roberto) came on the roof. § 87(2)(b) was handcuffed and off the ground when PO Roberto arrived on the roof. § 87(2)(b) said he was only hit by the officers prior to being handcuffed. § 87(2)(b) said five minutes passed between the time he threw PO Zappia off him, and when he was handcuffed. § 87(2)(b) stated that he did not resist arrest while he was on the ground.

PO Zappia recovered one bag of marijuana from § 87(2)(b)'s right pocket after searching him on the roof after he was handcuffed. To § 87(2)(b)'s knowledge, the police never recovered the marijuana clip he threw, and did not recover any other marijuana at the scene.

The officers brought § 87(2)(b) downstairs, and put him in a vehicle. § 87(2)(b) and § 87(2)(b) were arrested approximately four blocks from the incident location and brought to the precinct. § 87(2)(b) and § 87(2)(b) escaped.

At the precinct, § 87(2)(b) had headaches and was brought via ambulance to § 87(2)(b) where he stayed for approximately five hours. At § 87(2)(b) staff checked to see if § 87(2)(b) had lost any type of sight. § 87(2)(b) was given ice for the swelling. Other than the swelling/black eye, § 87(2)(b) said he sustained no additional injuries from the incident. § 87(2)(b)'s mother, § 87(2)(b) obtained names and badge numbers of several officers (including PO Segovia) after § 87(2)(b) was released from Central Booking.

Approximately two days later, when § 87(2)(b) was released, his mother § 87(2)(b) brought him to § 87(2)(b). A doctor put drops in § 87(2)(b)'s eye to see if he could see far, and checked his vision. § 87(2)(b) was not prescribed any medication. § 87(2)(b) also went to an eye specialist three to four days later. § 87(2)(b) was diagnosed with Iritis (inflammation of the colored part of the eye most commonly caused by trauma and eye infections). § 87(2)(b) has not received any other medical treatment for his injuries.

Photos of § 87(2)(b)

§ 87(2)(b) provided photos of his injuries (encl. 9A-9B) taken by his sister, § 87(2)(b), on December 12, 2012 (the day after the incident). The photos show § 87(2)(b) with a swollen, black-and-blue left eye.

Civilian Witnesses

There were no other civilian witnesses on the roof at the time of incident, and therefore no additional civilians were interviewed.

NYPD Statements:

Subject Officer: PO CARLOS SEGOVIA

- PO Segovia was § 87(2)(b) old at the time of the incident. He is a Hispanic male, who is 5'7", 205 lbs., and is bald with Brown eyes.
- On December 11, 2012, PO Segovia was working in a SNEU team in the 101st Precinct, and worked from 12:00 p.m. to 8:35 p.m. He was uniformed, his partner was PO Anthony Andino, and they were assigned to unmarked vehicle #§ 87(2)(b).

Memo Book

PO Segovia's memo book (encl. 10A-10C) notes PO Roberto made two arrests inside 23-52 Mott Avenue for § 87(2)(b), and that he went LOD as a result of the incident.

LOD Paperwork

In PO Segovia's LOD paperwork (encl. 11A-11C), he states that § 87(2)(b) violently resisted arrest by flailing his arms and legs to prevent being handcuffed, during which he sustained pain and swelling to his right hand.

CCRB Statement

On April 23, 2013, PO Segovia was interviewed at the CCRB (encl. 12A-12C). His statement is summarized below.

On December 11, 2012, at approximately 5:20 p.m., PO Segovia was working in a SNEU team with PO Anthony Andino. The officers were uniformed, and assigned to an unmarked vehicle. The vehicle was a dark, four-door Ford sedan (vehicle #§ 87(2)(b)).

PO Segovia and PO Andino were working with PO Joseph Zappia and PO Pegeen Roberto, who were in another vehicle. PO Zappia and PO Roberto told PO Segovia and PO Andino to meet them at 23-52 Mott Avenue in Queens, as they had received a call from their precinct that said there was a group of juveniles at the location smoking marijuana. PO Segovia did not remember if PO Zappia was in uniform or plainclothes.

The four officers arrived at the location and entered the building. The officers took the stairs, heard noise, and began a vertical patrol. When the officers reached the top of the roof landing, there were approximately three kids leaning against the door to the roof, and it smelled like marijuana.

As the officers approached the juveniles, the juveniles saw them, and one juvenile § 87(2)(b) opened the door and ran onto the roof. PO Zappia chased after him, and PO Segovia immediately followed him onto the roof. PO Segovia stated that PO Andino, and/or PO Roberto stayed with the other kids on the landing.

On the roof, PO Segovia saw § 87(2)(b) twist his body and swing his right elbow back one time at PO Zappia, who was behind him. PO Segovia was not sure if § 87(2)(b) made physical contact with PO Zappia. PO Segovia did not recall if PO Zappia or § 87(2)(b) was saying anything. PO Segovia was initially approximately 5 feet from PO Zappia and § 87(2)(b) and then immediately approached them. The three of them were approximately 5 feet away from the ledge. The rooftop was very dark at the time of the incident.

PO Segovia grabbed one of § 87(2)(b)'s arms, and PO Zappia grabbed his other. PO Segovia was not sure which officer grabbed which arm. § 87(2)(b) moved his shoulders back and forth, and spread his hands apart so the officers could not handcuff him. The struggle lasted for approximately 10 seconds. PO Segovia did not recall what § 87(2)(b) said during the struggle.

The officers still could not get the handcuffs on § 87(2)(b) so they took him down to the ground facedown. PO Segovia was not sure which of them took him to the ground, or how exactly he was brought to the ground. The officers still could not handcuff § 87(2)(b) as he had one arm under his body and one arm loose. § 87(2)(b) brought his loose arm underneath his body, and locked his arms at his chest. The officers issued commands to § 87(2)(b) several times, telling him to stop resisting, give them his hands, and that he was under arrest.

The officers had to forcibly pry § 87(2)(b)'s hands from under his body by grabbing his arms and pulling them back. § 87(2)(b) pulled against the officers as they pulled his arms back. The officers eventually managed to overpower § 87(2)(b) by grabbing his inner elbows/biceps and jerking his arms up behind his back while putting pressure on him. § 87(2)(b) was then handcuffed. PO Segovia did not recall who handcuffed him.

PO Roberto and PO Andino arrived on the roof after § 87(2)(b) was handcuffed, and PO Segovia and PO Zappia told them that they were fine. The officers picked § 87(2)(b) off the ground, and an officer frisked him for weapons. § 87(2)(b) was then brought downstairs. PO Segovia was not

sure who frisked § 87(2)(b) or who brought him downstairs. The interaction on the roof last approximately 3 to 4 minutes.

PO Segovia sustained a contusion and fracture to his right hand as a result of the incident. He stated that he must have hit his hand on the ground while struggling with § 87(2)(b) on the ground. PO Segovia went back to the 101st Precinct in his patrol car and explained his injury to his supervisor. His supervisor told him to go to the hospital.

PO Segovia and PO Zappia did not touch § 87(2)(b) anywhere else than described. PO Segovia did not strike § 87(2)(b). PO Segovia did not strike § 87(2)(b) with the hand that he injured. PO Segovia did not recall striking § 87(2)(b) with his foot. During the interview, PO Segovia was shown § 87(2)(b)'s arrest photo (in which he has a black eye) and stated that he did not know how he sustained the injury. PO Segovia did not know who brought § 87(2)(b) to the hospital. PO Segovia did not recall § 87(2)(b)'s physical state after the incident, and did not recall him being injured before he interacted with him. PO Segovia did not recall seeing § 87(2)(b)'s face strike the ground. PO Segovia did not recall § 87(2)(b) complaining of any injuries.

PO Segovia did not tell § 87(2)(b) to, "Shut the fuck up," and did not hear PO Zappia say that to § 87(2)(b). PO Segovia did not hear any officers speak discourteously to § 87(2)(b). PO Segovia did not recall § 87(2)(b) saying anything to him, and he did not recall saying anything to § 87(2)(b) other than issuing him commands.

PO Segovia did not interact with any of the other juveniles during the incident or afterwards, but believed they were all arrested for § 87(2)(b). Other than PO Zappia and § 87(2)(b), PO Segovia did not see anyone else on the roof during the incident.

Subject Officer: PO JOSEPH ZAPPIA

- PO Zappia was § 87(2)(b) old at the time of the incident. He is a white male, who is 5'9", 165 lbs., and has Brown hair and Brown eyes.
- On December 11, 2012, PO Zappia was assigned to a SNEU team in the 101st Precinct, and worked from 12:00 p.m. to 8:35 p.m. His partner was PO Pegeen Roberto, and the officers were in plainclothes, and assigned to an unmarked silver Ford Fusion (vehicle #§ 87(2)(e), § 87(2)(f)).

Memo Book

PO Zappia's memo book (encl. 14A-14C) notes that three people were arrested on the roof of 23-52 Mott Avenue. PO Zappia stated that he recovered one marijuana cigar on the ground from § 87(2)(b). He also recovered one marijuana cigar on the ground from § 87(2)(b) and recovered one zip of marijuana from the front right pocket of § 87(2)(b). PO Zappia noted that § 87(2)(b) tried to punch him in the face on the roof, elbowed his head, and violently resisted arrest. PO Zappia later notes that he took PO Segovia to § 87(2)(b) to get his right hand looked at, and that PO Segovia sustained a fracture.

AIDED

§ 87(2)(a) PHL § 18(6)

LOD Paperwork

In the witness statement of PO Segovia's LOD paperwork (encl. 16A), PO Zappia notes that during the arrest of § 87(2)(b) for § 87(2)(b), he was violently resisting. Immediately after § 87(2)(b) was arrested, PO Segovia complained of severe pain in his right hand, and PO Zappia observed severe swelling.

CCRB Statement

On April 24, 2013, PO Zappia was interviewed at the CCRB (encl. 17A-17C). His statement is summarized below.

On December 11, 2012, at approximately 5:20 p.m., PO Zappia was working in a SNEU team with PO Roberto. The officers were in plainclothes, and assigned to an unmarked silver Ford Fusion (vehicle #§ 87(2)(e)). The officers responded to a job from their precinct that someone had called in and complained about people smoking marijuana at 23-52 Mott Avenue in Queens. The officers met up with PO Segovia and his partner, who had been in a separate vehicle, and entered the location.

PO Zappia, PO Roberto, PO Segovia, and possibly PO Segovia's partner walked up the stairs of the building, and smelled a strong odor of marijuana. On last staircase before the roof, the officers turned the corner and looked up. Approximately 5-10 feet away, they saw a group of people smoking marijuana. The people who were smoking saw the officers, and approximately two of them ran through the door and onto the roof. PO Zappia immediately sprinted after them onto the roof. PO Zappia stated that the officers were identifiable as police because he had his shield out as they approached the group, and PO Segovia was in uniform.

The roof was very dark (the only light was coming from the door). PO Zappia made a left turn, and almost ran off the roof. He saw § 87(2)(b) hiding against a wall with his back against it, standing next to the edge of the roof. PO Zappia made eye contact with § 87(2)(b) identified himself as a police officer, and told him to stop where he was and to not move.

PO Zappia tried to grab § 87(2)(b) and § 87(2)(b) lunged at him and tried to punch him. § 87(2)(b)'s punch missed, and PO Zappia grabbed the front of § 87(2)(b)'s body with both hands. PO Zappia was struggling with § 87(2)(b) and tried to prevent them from falling off the roof. During this struggle, PO Zappia managed to turn § 87(2)(b) around. § 87(2)(b) then elbowed PO Zappia on the top of his head one time. PO then continued attempting to arrest § 87(2)(b) while § 87(2)(b) violently resisted. PO Zappia did not sustain an injury from § 87(2)(b).

Approximately 10-20 seconds later, PO Segovia came to assist PO Zappia. § 87(2)(b) was still kicking his legs out and violently flailing his arms to try to break free. The two officers managed to overpower § 87(2)(b) and threw him to the ground together. PO Zappia was standing behind § 87(2)(b) and holding his waist when the officers threw him to the ground.

§ 87(2)(b) landed on the ground on his stomach, and he continued to kick and flail his arms and legs while the officers tried to handcuff him. § 87(2)(b) initially had one of his arms under stomach and was flailing the other, and then had both arms out. The officers were on their knees attempting to pull § 87(2)(b)'s arms back. The officers repeatedly told § 87(2)(b) to stop resisting and calm down. § 87(2)(b) yelled a few things while he was on the ground, but PO Zappia did not recall what exactly they were. The ground struggle lasted for approximately 30 seconds before the officers were able to pull § 87(2)(b)'s hands back and handcuff him. PO

Zappia did not recall who handcuffed § 87(2)(b) PO Zappia did not recall seeing anyone else (officers or civilians) on the roof during the incident.

PO Zappia and PO Segovia did not make physical contact with § 87(2)(b)'s eye, and the officers did not kick him anywhere. During the interview, PO Zappia was shown § 87(2)(b)'s arrest photo. He stated that he did not know how § 87(2)(b) sustained the injury to his eye. PO Zappia observed § 87(2)(b)'s bruised eye during the incident, and said that it could have been caused by the face-first fall to the ground, as the rooftop was flat but had bumps on it. PO Zappia recalled § 87(2)(b) complaining of an eye injury after being arrested when he was being brought to the precinct. PO Zappia did not recall § 87(2)(b) saying how he sustained the injury. PO Zappia did not recall § 87(2)(b)'s physical condition otherwise. PO Zappia and PO Segovia did not use any additional physical force against § 87(2)(b) other than what was described. Other than PO Zappia and PO Segovia, no other officers physically interacted with § 87(2)(b).

After § 87(2)(b) was handcuffed, PO Zappia searched him on the roof and recovered a ziplock bag of marijuana from his front right pants pocket. PO Zappia believed that he transported § 87(2)(b) back to the 101st Precinct.

PO Segovia hurt his hand at some point during the ground struggle. PO Segovia made a comment about being injured during the struggle, and then complained that his hand hurt after the arrest was made. PO Zappia did not see exactly how PO Segovia was injured, and did not hear him explain how he hurt it. PO Zappia later brought PO Segovia to the hospital for his hand injury.

Another male, § 87(2)(b), was one of the kids smoking in the stairwell. PO Zappia was not sure who arrested/handcuffed him, but he was arrested at some point. PO Zappia recovered a marijuana cigar from § 87(2)(b) at some point.

The officers did not tell § 87(2)(b) to, "Shut the fuck up," or make any similar comments. PO Zappia did not go to the ground during the incident, other than after the officers took § 87(2)(b) to the ground.

Witness Officer: PO PEGEEN ROBERTO

- *PO Roberto was § 87(2)(b) old at the time of the incident. She is a white female, who is 5'4", 195 lbs., and has blonde hair and blue eyes.*
- *On December 11, 2012, PO Roberto was assigned to a SNEU team in the 101st Precinct, and worked from 12:00 p.m. to 8:35 p.m. PO Roberto was in plainclothes, her partner was PO Zappia, and they were assigned to an unmarked vehicle (#§ 87(2)(e), § 87(2)(b)).*

Memo Book

PO Roberto's memo book (encl. 19A-19E) notes that she responded to a call from the stationhouse about possible narcotics on the roof of the incident location. At the location, PO Roberto observed multiple individuals on the top stairway/landing smoking marijuana, and that multiple people ran onto the roof. § 87(2)(b) was stopped on the roof and violently resisted being rear handcuffed by lying on his hands and flailing his arms. § 87(2)(b) was attempting to elbow PO Zappia and PO Segovia. § 87(2)(b) twisted his torso and stiffened his arms so he could not be placed under arrest. § 87(2)(b) had been smoking a marijuana cigar in his right hand which was on the ground, and PO Zappia recovered one Ziploc bag of marijuana in his right pants pocket. § 87(2)(b) sustained swelling to his left eye, and was arrested.

§ 87(2)(b) was also arrested in possession of one marijuana cigar that was recovered from the floor by PO Zappia that had been in his right hand. A juvenile female was also arrested for § 87(2)(a) FCI § 280.1

The officers returned to the 101st Precinct to process the arrests. At 5:30 p.m. PO Roberto requested EMS to the stationhouse to evaluate § 87(2)(b) who was then transported to § 87(2)(b) with PO Andino. The juvenile was released to her mother, and § 87(2)(b) was released with a DAT. At § 87(2)(b) .. § 87(2)(b) returned from the hospital and was fingerprinted and made ready for transport.

Arrest Report

§ 87(2)(a) 160.50

CCRB Statement

On April 30, 2013, PO Roberto was interviewed at the CCRB (encl. 21A-21C). Her statement is summarized below.

On December 11, 2012, at approximately 5:20 p.m., PO Roberto was working in a SNEU team and partnered with PO Zappia. The officers were in plainclothes, and assigned to an unmarked vehicle (vehicle #§ 87(2)(e) § 87(2)(b)). The officers received a job from the 101st Precinct (via the switchboard), which said there were people smoking marijuana on the roof of 23-52 Mott Avenue, in Queens.

The officers met up with other members of the SNEU team (including PO Segovia), and entered the location. The officers walked up the stairs, and on the second to last floor, they heard individuals and smelled strong odor of marijuana. As they approached top landing, some of the individuals ran on to the roof and some ran downstairs.

PO Roberto stated there were multiple individuals on stairs and landing smoking weed, and the door to roof was open. PO Roberto was around the corner of the stairwell, and heard individuals flee. The other officers (PO Zappia and PO Segovia) were ahead of her. PO Roberto saw multiple people run to the roof. PO Zappia and PO Segovia ran onto the roof after the individuals, and PO Roberto followed immediately after.

PO Zappia and PO Segovia went left on the roof, and PO Roberto went to the right. PO Roberto went to the right because the other officers had already gone to the left. The right part of the roof was attached to other rooftops. PO Roberto went approximately 30 feet onto the right side of the roof until it was pitch black and she was alone. PO Roberto turned on her flashlight. She thought she saw one of the individuals running, but could not be certain. PO Roberto heard PO Zappia and PO Segovia telling someone to stop resisting and give them their hands. PO Roberto did not hear § 87(2)(b) PO Roberto was on the right side of the roof for approximately 30 seconds to a minute.

PO Roberto returned to the roof doorway, which was the only light source on the roof. Directly to the right of the door, PO Roberto saw § 87(2)(b) lying face-down on the ground with one of his arms (she was not sure which) under his body, refusing to give it to the officers to be handcuffed. § 87(2)(b) was rolling back and forth to avoid giving his hand up to the officers. PO Zappia and PO Segovia were telling them to give them his hand, and one of them was holding back § 87(2)(b)'s free hand. Both officers were crouched over § 87(2)(b) attempting to pull his other hand out from underneath him.

PO Roberto had her flashlight pointed on § 87(2)(b) to make sure he did not have a weapon in the hand he was withholding from the officers. She was also using her flashlight to make sure the officers did not fall off the roof, as they were approximately a foot away from the edge.

PO Roberto witnessed the officers struggling with § 87(2)(b) for approximately a minute to a minute and a half. § 87(2)(b) was then handcuffed by one of the two officers (PO Roberto was not sure which officer handcuffed him). PO Roberto did not recall anything specific that § 87(2)(b) said on the rooftop. The only movements PO Roberto saw § 87(2)(b) make was tuck his hand further under his chest. PO Roberto did not recall him doing anything with his legs. PO Roberto did not recall § 87(2)(b) struggling after he was handcuffed. The entire incident on the roof lasted approximately 5 to 10 minutes.

§ 87(2)(b) was initially faced away from PO Roberto, but when he rolled towards her during the struggle, his face was swollen around his eye/eyebrow area. PO Roberto did not witness § 87(2)(b) sustain the injury to his eye, and did not see any other injuries on § 87(2)(b) § 87(2)(b) did not complain of the eye injury until they were back at the stationhouse.

When PO Roberto was asked if she ever became aware of how § 87(2)(b) sustained the injury to his eye, she stated that PO Zappia told her that when he first encountered § 87(2)(b) on the roof, he tried to push him off the roof, and they collided and fell to the floor. PO Roberto did not witness this interaction.

PO Roberto did not witness PO Segovia injure his hand, but said that he said his hand hurt while they were on the roof. PO Roberto did not become aware of how PO Segovia hurt his hand at any point.

PO Roberto did not interact with § 87(2)(b) at the incident location, other than walking with him downstairs. PO Roberto did not say anything to § 87(2)(b) and did not have any physical contact with him. PO Roberto did not see any other civilians on the roof. PO Roberto did not believe any other officers were on the roof, and said the rest of her team was pursuing the other individuals who had been smoking marijuana.

After the rooftop struggle, the officers brought § 87(2)(b) downstairs, and then to the stationhouse to be processed. At stationhouse, § 87(2)(b) requested medical attention, and said his eye hurt and was swollen closed. § 87(2)(b) did not say what caused the eye injury. § 87(2)(b) was then brought to the hospital.

PO Roberto did not witness PO Zappia and/or PO Segovia use any additional physical force against § 87(2)(b) other than trying to get his hand/arm out from underneath his chest so he could be handcuffed. PO Roberto did not see PO Zappia or PO Segovia make physical contact near or with § 87(2)(b)'s eye. PO Roberto did not witness PO Zappia, PO Segovia, or any other

officers strike § 87(2)(b) PO Roberto also did not hear PO Zappia, PO Segovia, or any other officers tell § 87(2)(b) to, “Shut the fuck up,” or use any other discourteously language with him.

Medical Records

§ 87(2)(b)'s medical records (encl. 23A-23AQ) state that he had swelling to his left eye. § 87(2)(b) was brought to the hospital in handcuffs and shackles, and had a police officer with him. § 87(2)(b) was diagnosed with “iritis” (inflammation of the colored part of the eye).

NYPD Documents

Arrest Photo

§ 87(2)(b)'s arrest photo shows that his left eye was swollen shut, and is black and blue (encl. 24A).

Medical Treatment of Prisoner Report

The Medical Treatment of Prisoner Report notes that § 87(2)(b) had a swollen left eye when he was transported to the hospital (encl. 25A).

Command Log

The command log (encl. 28D) notes that at 5:40 p.m., § 87(2)(b) was arrested by PO Roberto for § 87(2)(a) 160.50. Command log notes that § 87(2)(b) had a swollen eye and that he was brought to § 87(2)(b) by PO Andino.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of June 10, 2013 with regard to this incident (encl. 30A).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3A).
- This is the first CCRB complaint filed by § 87(2)(b) (encl. 4A).

Subject Officer CCRB History

- PO Zappia has been a member of the service for 8 years, and there are no substantiated CCRB allegations against him (encl. 1A).
- PO Segovia has been a member of the service for 8 years, and there is one substantiated CCRB allegation against him (encl. 2A):

- In CCRB case #201113426, a vehicle search allegation was substantiated against PO Segovia. The CCRB recommended charges, but the NYPD dismissed them.

Conclusion

Identification of Subject Officers

PO Zappia acknowledged initially attempting to grab § 87(2)(b) and physically interacting with him on the roof, § 87(2)(g). PO Segovia acknowledged that he assisted PO Zappia in physically subduing and arresting § 87(2)(b) on the roof, § 87(2)(g).

Investigative Findings and Recommendations

Allegation A—Force: PO Joseph Zappia used physical force against § 87(2)(b)

Allegation B—Force: PO Carlos Segovia used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Zappia accused him of punching/elbowing him in the face, and then PO Zappia and PO Segovia punched him in the head. § 87(2)(b) did not describe the punches in more detail, other than that he was punched in the head. § 87(2)(b) said that he swiped PO Zappia's hands away/threw them off, and PO Zappia fell to the ground. PO Zappia told PO Segovia that § 87(2)(b) punched/elbowed him in his face. PO Zappia and PO Segovia then started punching § 87(2)(b) in his head. PO Segovia told § 87(2)(b) to put his hands behind his back. § 87(2)(b) said attempted to comply with being handcuffed, but that he could not put his hands behind his back because the officers were punching him in the head.

PO Zappia stated that § 87(2)(b) tried to punch him. § 87(2)(b) then elbowed PO Zappia on the top of his head one time. § 87(2)(b) violently resisted arrest. The officers went to their knees attempting to pull § 87(2)(b)'s arms back. The officers repeatedly told § 87(2)(b) to stop resisting and calm down. The officers struggled with § 87(2)(b) on the ground until they were able to pull his hands back and handcuff him.

PO Segovia stated that he saw § 87(2)(b) swing his right elbow back one time at PO Zappia. The officers issued commands to § 87(2)(b) several times, telling him to stop resisting and give them his hands. The officers had to forcibly pry § 87(2)(b)'s hands from under his body by grabbing his arms and pulling them back. The officers eventually managed to overpower § 87(2)(b) by jerking his arms up behind his back.

According to Patrol Guide Procedure 203-11, officers are to use the minimum necessary force at the scene of any police incident (encl. 1.1-1.2).

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation C—Discourtesy: PO Carlos Segovia spoke discourteously to § 87(2)(b)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Allegation D—Force: PO Carlos Segovia used physical force against § 87(2)(b)

§ 87(2)(b) claimed that PO Segovia kicked him in his eye. § 87(2)(b) stated that he covered his face with his hands while he was being hit, and then he looked up and to the left and saw PO Segovia kick him. § 87(2)(b) also said that an officer wearing a boot kicked him in the eye when he was speaking to the medical staff that treated his injury. § 87(2)(b)'s arrest photo and medical records confirm that he sustained a blackened, swollen eye.

PO Segovia denied kicking § 87(2)(b) in the eye, and PO Zappia and PO Roberto supported his claim. All three officers did not know how exactly § 87(2)(b) sustained his injury, but guessed that it was a result of his fall to the ground. PO Segovia and PO Zappia admitted that they took § 87(2)(b) to the ground face-first, but did not see him strike his face on the ground. PO Roberto did not see § 87(2)(b) fall to the ground. PO Segovia broke his hand during § 87(2)(b)'s arrest, which he believed he sustained by accidentally striking the ground.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date